

**Introduced by Senator Jackson**

December 22, 2016

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An act to add Section 12945.6 to the Government Code, relating to employment.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 63, as introduced, Jackson. Unlawful employment practice: parental leave.

Existing law, the Moore-Brown-Roberti Family Rights Act, makes it an unlawful employment practice for an employer, as defined, to refuse to grant a request by an eligible employee to take up to 12 workweeks of unpaid protected leave during any 12-month period (1) for reason of a child born to, adopted by, or placed for foster care with, the employee, (2) to care for the employee's parent or spouse who has a serious health condition, as defined, or (3) because the employee is suffering from a serious health condition rendering him or her unable to perform the functions of the job.

Existing law prohibits an employer from refusing to allow a female employee disabled by pregnancy, childbirth, or a related medical condition to take a leave for a reasonable time of up to 4 months before returning to work. Existing law also prohibits an employer from refusing to maintain and pay for coverage under a group health plan for an employee who takes that leave, as specified.

This bill would prohibit an employer, as defined, from refusing to allow an employee with more than 12 months of service with the employer, and who has at least 1,250 hours of service with the employer during the previous 12-month period, to take up to 12 weeks of parental leave to bond with a new child within one year of the child's birth, adoption, or foster care placement. The bill would also prohibit an

employer from refusing to maintain and pay for coverage under a group health plan for an employee who takes this leave. The bill would provide that it would not apply to an employee who is subject to both specified state law regarding family care and medical leave, and the federal Family and Medical Leave Act of 1993. The bill would authorize, but not require, an employer, when 2 employees of this employer are entitled to leave pursuant to this bill for the same birth, adoption, or foster care placement, to grant simultaneous leave to both of these employees.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. This act shall be known, and may be referred to,  
2     as the New Parent Leave Act.  
3     SEC. 2. Section 12945.6 is added to the Government Code, to  
4     read:  
5     12945.6. (a) It shall be an unlawful employment practice for  
6     an employer to do any of the following:  
7     (1) Refuse to allow an employee with more than 12 months of  
8     service with the employer, and who has at least 1,250 hours of  
9     service with the employer during the previous 12-month period,  
10    upon request, to take up to 12 weeks of parental leave to bond with  
11    a new child within one year of the child's birth, adoption, or foster  
12    care placement. If, on or before the commencement of this parental  
13    leave, the employer does not provide a guarantee of employment  
14    in the same or a comparable position upon the termination of the  
15    leave, the employer shall be deemed to have refused to allow the  
16    leave. The employee shall be entitled to utilize accrued vacation  
17    pay, paid sick time, other accrued paid time off, or other paid or  
18    unpaid time off negotiated with the employer, during the period  
19    of parental leave.  
20    (2) Refuse to maintain and pay for coverage for an eligible  
21    employee who takes parental leave pursuant to this section under  
22    a group health plan, as defined in Section 5000(b)(1) of the Internal  
23    Revenue Code of 1986, for the duration of the leave, not to exceed  
24    12 weeks over the course of a 12-month period, commencing on  
25    the date that the parental leave commences, at the level and under  
26    the conditions that coverage would have been provided if the

1 employee had continued to work in his or her position for the  
2 duration of the leave.

3 (b) An employee is entitled to take, in addition to the leave  
4 provided pursuant to this section, leave provided pursuant to  
5 Section 12945 if the employee is otherwise qualified for that leave.

6 (c) This section shall not apply to an employee who is subject  
7 to both Section 12945.2 and the federal Family and Medical Leave  
8 Act of 1993.

9 (d) When two employees are employed by the same employer  
10 and are entitled to leave pursuant to this section for the same birth,  
11 adoption, or foster care placement, the employer may, but is not  
12 required to, grant simultaneous leave to both of these employees.

13 (e) The basic minimum duration of the leave shall be two weeks.  
14 However, an employer may grant a request for additional occasions  
15 of leave that last less than two weeks.

16 (f) Parental leave taken pursuant to this section shall run  
17 concurrently to parental leave taken as described in Section 44977.5  
18 of the Education Code.

19 (g) For purposes of this section, employer means either of the  
20 following:

21 (1) A person who directly employs, within 75 miles of the  
22 worksite where an employee is employed, 20 or more persons to  
23 perform services for a wage or salary.

24 (2) The state, and any political or civil subdivision of the state  
25 and cities, except for a school district, county office of education,  
26 or a community college district.